IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11506 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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VEDVA VAGRI BHUPAT DHARSHI

Versus

STATE OF GUJARAT

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Appearance:

MS SUBHADRA G PATEL for Petitioner

MR SAMIR DAVE AGP for Respondent No. 1, 2, 3

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 06/02/2001

ORAL JUDGEMENT

#. Mr.Samir Dave prays for short adjournment of the matter to file reply to the special civil application. I do not find any justification in this prayer made by learned counsel for the respondents. This matter was admitted on 15.11.2000 and more than sufficient time was

available to the respondents, if they were desirous of filing reply to the special civil application.

#. From the facts of this case, it appears that deliberately, lacunas are being left in the matter so that it may not be difficult for the petitioner to get himself released from the court. This suspicion created in the mind is further fortified from the fact that nobody has bothered from the side of respondents to file reply to the special civil application. That appears to be another deliberate attempt on their part to make it easy for the petitioner to get himself released from this detention. Manifold contentions have been raised by learned counsel for the petitioner challenging the order of respondent No.2 dated 7th September, 2000 under which the petitinoer was ordered to be detained as a `bootlegger' in exercise of powers conferred under Section 3(1) of the PASA Act but as this petition deserves to be allowed only on one ground, it is not necessary as well as advisable to digest on all those grounds and give findings. Otherwise also, if this course is adopted, it will result in loss of valuable judicial time of the court which is already facing serious problem to overcome heavy pendency of matters.

#. In paragraph-11 of the special civil application, the petitioner grievance that the detaining authority has not supplied vital documents, i.e. statements of witnesses which were recorded under Section 161 of Cr.P.C. at the time of passing the order of detention along with the documents and he has been deprived of his valuable right of making effective representation which has been conferred upon him under Article 22(5) of the Constitution. Reply to the special civil application has not been filed and these averments made by petitioner stand uncontroverted and the same are to be accepted. Otherwise also, the learned counsel for the petitioner has failed to point out that the copies of the statements of witnesses recorded under Section 161 of the Cr.P.C. have been given to the petitioner.

#. As a result of aforesaid discussion, this special civil application succeeds the order dated 7.9.2000 passed by the District Magistrate, Bhavnagar, detaining the petitioner as a `bootlegger' is quashed and set aside and the petitioner - Vedva Vagri Bhupat Darshi, detenu, at present detained at Porbandar Special Prison, Porbandar, be set at liberty forthwith if he is not required in any other case. Rule is made absolute. No order as to costs.

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(sunil)